

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

-----X
XEROX CORPORATION,

Plaintiff,

-against-

Civil Case No.
WDQ 02 CV 1734

PHOENIX COLOR CORPORATION

and

TECHNIGRAPHIX, INC.,

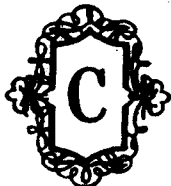
Defendants.

-----X

September 18, 2003
9:32 A.M.

Deposition of CHARLES M. CORR, taken
by Plaintiff, pursuant to Agreement, at the
offices of Piper Rudnick, LLP, 1251 Avenue of the
Americas, New York, New York 10020 before
Anneliese R. Tursi, a Registered Professional
Reporter and Notary Public within and for the
State of New York.

ARTA PASCULLO, President



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1 C. Corr

2 C H A R L E S M. C O R R ,

3 having been first duly sworn by the

4 , Notary Public (Anneliese R. Tursi),

5 having stated his business address as

6 being CAP Ventures, 600 Cordwainer

7 Drive, Norwell, Massachusettes 02061

8 was examined and testified as follows:

9 MR. FRIEDMAN: Why don't we have

10 the two reports as Corr Exhibit 1 and

11 2.

12 (Letter dated January 23, 2003 on

13 CAP Ventures letterhead with

14 attached report by Charles M.

15 Corr dated January 22, 2003

16 marked Corr Exhibit 1 for

17 identification, as of this date.)

18

19 (Letter dated September 12, 2003

20 from Robert Gaumont to Sidney

21 Friedman with attached

22 supplemental report by Charles M.

23 Corr dated September 12, 2003

24 marked Corr Exhibit 2 for

25 identification, as of this date.)

Charles Corr
September 18, 2003

1 C. Corr
2 EXAMINATION BY MR. FRIEDMAN:
3 Q. Would you state your name please,
4 for the record?
5 A. Yes, Charles M. Corr.
6 Q. Mr. Corr, by whom are you
7 employed?
8 A. CAP Ventures.
9 Q. In what capacity?
10 A. I'm a group director.
11 Q. Which means what? What do you
12 do?
13 A. I am responsible for managing a
14 number of services at CAP Ventures. We are a
15 consulting firm and we have a number of
16 different practices.
17 Q. We have marked as Exhibit 1 the
18 report of January 23, 2003, which you authored
19 and signed off on. Attached to that were some
20 bio's on you and your company.
21 A. Yes.
22 Q. Let's look at those bio's and I
23 will ask a few questions.
24 A. Sure.
25 Q. I take it, Exhibit A, which is

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1 C. Corr
2 another level, they're complementary.
3 And the services that I have look
4 at hardware and software in both production
5 environments and in work group environments
6 like what you see here.
7 And we also then work with
8 vendors of this equivalent, the manufacturers
9 and distributors and using, companies like
10 Kinkos or Moore, who use equipment.
11 So in some ways, while they are
12 independent practices, they are complementary
13 in terms of developing expertise.
14 Q. What is your understanding as to
15 the area of expertise that you are testifying
16 to today?
17 A. Practices within the industry.
18 Q. Anything else?
19 A. That's fairly comprehensive.
20 Q. All right. So your expertise
21 focuses on, with regard to this lawsuit,
22 practices within the industry?
23 MR. GAUMONT: Objection.
24 A. Right. As both a consultant to
25 the industry and also having been in this

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1 C. Corr
2 the bio on CAP Ventures, is a fair summary of
3 what CAP Ventures does?
4 A. Yes.
5 MR. GAUMONT: Objection.
6 Q. In Exhibit A, you have a category
7 entitled "CAP Ventures Consulting expertise
8 includes the following practice areas:"
9 Do you see that?
10 A. Yes.
11 Q. Which of those areas relates to
12 the expertise that you are offering today?
13 MR. GAUMONT: Objection.
14 You can answer.
15 A. The first paragraph kind of
16 indicates, and then subsequently, one answer
17 is that all of our services work together in
18 conjunction to provide a view of markets and
19 we use all of our services to get an
20 understanding of markets.
21 So the primary service would be
22 the on-demand that is supported by others,
23 such as the digital peripheral and services
24 that look at consumable use, paper use. So at
25 one level, they are silos of services. On

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2 (Pages 5 to 8)

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1 C. Corr
2 Q. Would they be considered in the
3 category of the 40 percent private
4 consultation revenue?
5 A. Yes. Yes.
6 Q. Let's look at Exhibit C attached
7 to your report.
8 Now, as I understand it from your
9 testimony so far, the area within which you
10 are being offered as an expert is within the
11 print -- on-demand printing?
12 A. Yes.
13 Q. On-demand publishing and
14 printing?
15 A. Right.
16 Q. What within your bio, Exhibit C,
17 supports that expertise, in your opinion?
18 MR. GAUMONT: Objection.
19 A. Do you want me to talk about it
20 or do you want to dive into it?
21 Q. Point out the areas. Let's just
22 take the first page, page 7.
23 MR. GAUMONT: If I could note for
24 the record, it is a three-page resume.
25 MR. FRIEDMAN: Correct. I

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1 C. Corr
2 understand.
3 Q. Page 7.
4 A. Yes.
5 Q. On page 7, what information set
6 forth on page 7 supports your area of
7 expertise with regard to this lawsuit?
8 A. As you start off, I'm the group
9 director, I'm one of the most senior people at
10 CAP Ventures, which makes me one of the more
11 senior people in the industry. So I'm often
12 consulting with senior clients.
13 I'm a public speaker at industry
14 events on a regular occasion. And I have been
15 doing that, as you can see, since 1998.
16 Q. And you are saying you are one of
17 the more senior people at CAP?
18 A. Yes. I'm a group director.
19 Q. By senior, are you indicating
20 seniority in terms of years or seniority in
21 terms of some sort of expertise?
22 MR. GAUMONT: Objection.
23 You can answer.
24 A. In terms of expertise and
25 responsibilities.

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1 C. Corr
2 If you think about how we are
3 organized as a professional services firm, we
4 have the managing director, Charlie Pesko, we
5 have group directors, group directors have
6 directors that report to them, consultants and
7 research analysts and other folks report to
8 group directors. And then I have been there
9 since 1998.
10 Prior to being there, I have more
11 than 25 years experience in the printing,
12 copying, corporate field and implemented
13 digital print technology and, indeed, helped
14 pioneer digital print technology in the late
15 '80s and early '90s.
16 So I know the technology, I know
17 how to incorporate it into the business, and
18 then I have consulting experience since 1998.
19 Q. Is it fair to say that the
20 paragraph on page 7 that starts with the
21 on-demand printing and publishing services,
22 would be the paragraph which would be most
23 specifically related to your expertise with
24 regard to this matter?
25 MR. GAUMONT: Objection.

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1 C. Corr
2 A. Yes. In conjunction, as we have
3 stated earlier, with the sister services.
4 Q. Let's look at pages 8 and 9 of
5 your report, Exhibit C.
6 Point out to me anything else
7 that you think specifically supports your
8 expertise with regard to your testimony in
9 this case.
10 A. Some of what I have done, which
11 is explained in the second paragraph,
12 responsible for driving programs that help
13 service providers, distributors,
14 manufacturers, and end-users of business
15 communications technologies and services.
16 That I have worked, provided research and
17 consulting services for literally every major
18 player.
19 As I mentioned, I'm a frequent
20 speaker.
21 Additionally, prior to joining
22 CAP Ventures, I was responsible for operations
23 of Harvard University Printing and
24 Publications Services from 1984 to 1999. They
25 were a full service graphics service provider

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4 (Pages 13 to 16)

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<p>1 C. Corr</p> <p>2 to Harvard University and its affiliates. We</p> <p>3 were essentially a cost recovery department</p> <p>4 within Harvard University. When I left, it</p> <p>5 had an annual sales of \$14 million.</p> <p>6 While at Harvard University, as I</p> <p>7 mentioned earlier, we helped bring the market,</p> <p>8 the digital print market, into the production</p> <p>9 market.</p> <p>10 So if you think about the</p> <p>11 transition of the industry from offset to</p> <p>12 digital, this is when it happened, in the late</p> <p>13 '80s, early '90s. It continues to happen.</p> <p>14 So I had a great deal of</p> <p>15 experience entering into literally dozens of</p> <p>16 lease and purchase agreements with Xerox and</p> <p>17 other vendors during my tenure at Harvard.</p> <p>18 You know, I don't know if it --</p> <p>19 do you want me to go into the recognitions and</p> <p>20 affiliations?</p> <p>21 Q. Sure. I would like to know what,</p> <p>22 among those recognitions, you think supports</p> <p>23 your expertise with regard to your testimony</p> <p>24 in this case.</p> <p>25 MR. GAUMONT: Objection.</p> <p style="text-align: right;">Page 17</p>	<p>1 C. Corr</p> <p>2 efforts, identifying, you know, to a certain</p> <p>3 extent, identifying applications where the</p> <p>4 technology was applicable and it helped guide</p> <p>5 both the marketing message and the product</p> <p>6 development efforts.</p> <p>7 Profit Control Users group,</p> <p>8 really, Profit is an MIS program used by</p> <p>9 primarily commercial printers to help them</p> <p>10 manage their business. So it really just</p> <p>11 speaks to knowing a number of people in the</p> <p>12 industry.</p> <p>13 The National Association of Print</p> <p>14 Leadership is an industry association that I</p> <p>15 have been a member of for a long -- many</p> <p>16 number of years.</p> <p>17 I was a member of the National</p> <p>18 Association of College and University Mail</p> <p>19 Services.</p> <p>20 Quick Printers/Print Image, I</p> <p>21 have been a member of for a long time.</p> <p>22 Printing Industries of New</p> <p>23 England, a long time.</p> <p>24 And I have been affiliated with</p> <p>25 the GCIU, which is a union, since the start of</p> <p style="text-align: right;">Page 19</p>
<p>1 C. Corr</p> <p>2 A. Okay. The first one, Printing</p> <p>3 Industry of America, that talks directly to</p> <p>4 the fact that the industry was changing from</p> <p>5 offset printing to digital print.</p> <p>6 The Overture print-on-demand</p> <p>7 printing project was a development project</p> <p>8 with Xerox PARC. And the result of that is</p> <p>9 today's DigiPath. And DigiPath was an effort</p> <p>10 to network devices such as a DocuTech, which</p> <p>11 speaks to my understanding of both the</p> <p>12 technology and the practical uses of a</p> <p>13 technology within a printing establishment.</p> <p>14 Then First Place Awards for most</p> <p>15 creative use of digital printing and</p> <p>16 reengineering, the same point, how do you use</p> <p>17 this technology effectively?</p> <p>18 The affiliations, I have been on</p> <p>19 Xerox University Advisory Panels.</p> <p>20 Q. What is that?</p> <p>21 A. They had established a number of</p> <p>22 advisory panels to help them go to market,</p> <p>23 understand requirements, provide case studies,</p> <p>24 provide a sounding board for product</p> <p>25 development efforts, sales and marketing</p> <p style="text-align: right;">Page 18</p>	<p>1 C. Corr</p> <p>2 my tenure at Harvard.</p> <p>3 Some of these are just general</p> <p>4 industry associations of which I have been a</p> <p>5 member of for a long period of time, which</p> <p>6 speaks to practices and understanding the</p> <p>7 industry and knowing what's going on.</p> <p>8 I think on the technology side,</p> <p>9 we discussed a little of this, but we helped</p> <p>10 develop the products that are really currently</p> <p>11 at use in this case.</p> <p>12 We worked with Xerox PARC and</p> <p>13 Harvard Business School to develop a model for</p> <p>14 print-on-demand. We used this technology to</p> <p>15 provide other applications such as Harvard</p> <p>16 diplomas. We developed a print-on-demand</p> <p>17 printing solution for Harvard Business School</p> <p>18 publishing.</p> <p>19 I served as a subject matter</p> <p>20 expert to Xerox to networked digital print</p> <p>21 order entry, pricing and scheduling software,</p> <p>22 related to that project, as well as Overture</p> <p>23 and DigiPath.</p> <p>24 The FAS was it was an on-line</p> <p>25 tool that enabled students and faculty staff</p> <p style="text-align: right;">Page 20</p>

5 (Pages 17 to 20)

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1 C. Corr
2 to print and distribute in an environment in
3 the way that if I was at a house and my local
4 printer went down, I could access a printer
5 next door or at the library and there was a
6 whole payment procedure that used debit cards
7 behind that.
8 Q. Does that support your testimony
9 as an expert in this case --
10 MR. GAUMONT: Objection.
11 Q. -- in your opinion?
12 A. Only in that it speaks to taking
13 technology and incorporating it with a
14 business practice.
15 I have expertise on both sides of
16 that, which is kind of neat to do, but it also
17 had a component that was a business component.
18 The same with the last, pricing,
19 estimating, order entry.
20 And before I was at Harvard, I
21 was at Wellesley College, a smaller college,
22 but essentially performing the same duties
23 earlier in time. We had offset presses and
24 what are now Xerox DigiPath.
25 The other relevant, I have taught

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1 C. Corr
2 classes at Northeastern University on buying
3 print services, selecting and purchasing
4 paper, managing print production, which would
5 be the most relevant.
6 Q. Among all the qualifications that
7 you just mentioned as relating to the area of
8 expertise that you are offering in this
9 lawsuit, is there anything in there which
10 indicates an expertise in evaluating equipment
11 in the secondary market?
12 MR. GAUMONT: Objection.
13 A. Having been in the industry, I
14 have sold equipment into the secondary market.
15 I have purchased equipment in the secondary
16 market. I have consulted with clients who
17 were considering buying equipment or selling
18 equipment into the secondary market.
19 And it is critically important
20 for us as a company to understand the dynamics
21 of these markets which is related to -- if you
22 think about a top line, we have got to
23 understand the dynamics of the costs in the
24 marketplace, the marketplace dynamics.
25 One of the things we do on an

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1 C. Corr
2 annual basis is we forecast the market by unit
3 so it is important for us to understand, for
4 instance, what is the market for a specific
5 piece of device in a given year, what is its
6 placement activity in the past, what is its
7 activity level, how much in pages is it
8 producing, what is the retail value of those
9 pages. That's the basis of our ongoing
10 consulting service is that type of
11 information. So you have to be, on one level,
12 you have to be constantly following the
13 market.
14 On the other level, you have to
15 be advising clients on both the seller side
16 and the buyer side on market dynamics and
17 opportunities and then on the final areas,
18 that I bought and sold a number of pieces of
19 equipment while I was at Harvard.
20 Q. Is there anything in your
21 background and in your listing of
22 accomplishments that focuses on the secondary
23 equipment market --
24 MR. GAUMONT: Objection.
25 Q. -- specifically?

Page 23

1 C. Corr
2 A. Only insofar as I have explained
3 that I have bought and sold, I have advised
4 clients on buying and selling. We track that
5 market as it impacts the overall opportunity
6 for placements of new equipment.
7 Q. So you do track something in the
8 secondary market, is that what you are saying?
9 A. Yes.
10 Q. Do you have forecasts for the
11 secondary market equipment?
12 A. What we have, we have
13 forecasts -- for instance, our overall
14 forecasts look at two primary things:
15 Placements of new equipment,
16 right, now, we also have to keep track of the
17 total install base of equipment, which
18 generates, uses paper, it generates income to
19 companies like Xerox and others in terms of
20 service and supply revenue.
21 So not only do you get money from
22 selling equipment, you get money from the
23 aftermarket and, indeed, you generally get,
24 you know, that is an important part of your
25 business, and it produces retail value, which

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6 (Pages 21 to 24)

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1 C. Corr
2 is critically important to the service
3 providers.
4 We have to track two things: How
5 many new units go into the market and how many
6 units remain in the market. And as part of
7 the remain in the market, it is how many are
8 put back into circulation.
9 By that, I mean, which is part of
10 the secondary market, something comes up on a
11 lease, it was sold as new, let's track sort of
12 a device, sold as new, right, at the end,
13 let's say, of the lease term, it doesn't leave
14 the market.
15 It may leave a particular
16 location, but we need to understand what's
17 happened to that asset in the install base for
18 two reasons: What is it generating in terms
19 of pages and the subsequent revenue, and then
20 the other is what impact does the secondary
21 market have on the primary opportunities
22 selling new equipment replacements.
23 Q. Do you have any publication which
24 specifically focuses on the sales, buying and
25 selling in the secondary market, used

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1 C. Corr
2 equipment?
3 MR. GAUMONT: Objection.
4 A. We have no specific publication
5 that does that. It is covered in our annual
6 market forecasts, which is a couple of
7 hundred-page document.
8 Q. I take it, therefore, that you
9 have no specific publications which focuses on
10 the buying and selling in the secondary market
11 of the Xerox 6180s?
12 MR. GAUMONT: Objection.
13 A. If you are asking if there is a
14 specific publication?
15 Q. Yes.
16 A. There is no specific publication
17 titled that it is covered in our methodology
18 and in our annual publications, particularly
19 the on-demand market forecasts.
20 Q. Is there anything in there that
21 specifically focuses on the buying and selling
22 of Xerox 6180s?
23 MR. GAUMONT: Objection. Asked
24 and answered.
25 A. Yes.

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28

7 (Pages 25 to 28)

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1 C. Corr
2 president?
3 A. He had an obligation to inform
4 anyone I was doing business with as to what
5 his role was.
6 Q. Thank you. All right.
7 Now, you have indicated that
8 there was some duty on the part of Xerox to
9 have made an inquiry to understand who they
10 were dealing with --
11 A. Yes.
12 Q. -- with regard to the execution
13 of these contracts.
14 Are you assuming that Xerox made
15 no inquiry?
16 A. I'm --
17 Q. Are you aware of any inquiries
18 that Xerox made?
19 A. Am I aware of any inquiries to
20 Mr. Tyler, or in general?
21 Q. Yes, or to Phoenix Color or
22 TechniGraphix regarding the position, what Mr.
23 Tyler's position was.
24 A. What Mr. Tyler's position was?
25 Q. Yes.

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1 C. Corr
2 A. I -- my sense -- I don't know,
3 obviously. Obviously, I wasn't -- were there
4 any conversations? I have no knowledge of any
5 conversations.
6 Q. So you were not advised of
7 information that was provided to Xerox when
8 Phoenix Color purchased the stock of
9 TechniGraphix in February of the year 1999?
10 A. Right.
11 Q. Were you aware that Phoenix
12 Color -- well, you were aware because you
13 reviewed that document?
14 A. Yes, I was aware of it.
15 Q. You understood from reviewing the
16 documents, that Phoenix Color purchased the
17 stock of TechniGraphix, correct?
18 A. And that TechniGraphix was a
19 wholly owned subsidiary.
20 Q. What does it mean to be a wholly
21 owned subsidiary?
22 A. What does it mean to me to be a
23 wholly owned subsidiary?
24 Q. Yes, to you.
25 A. That it is held as a separate

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24 (Pages 93 to 96)

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1 C. Corr
2 legal entity and that, generally, there was
3 some separation between those entities from a
4 legal perspective.
5 Q. Is that always the case?
6 A. Is it always the case?
7 Q. Yes.
8 A. It would depend how the deal was
9 structured. I would say it was generally the
10 case, otherwise --
11 Q. It would depend -- I'm sorry, go
12 ahead. Otherwise?
13 A. Otherwise, you wouldn't have
14 handled it in that manner.
15 Q. A wholly owned subsidiary can be
16 a part of the acquiring corporation --
17 MR. GAUMONT: Objection.
18 Q. -- is that correct?
19 MR. GAUMONT: Asking for a legal
20 conclusion.
21 A. It is certainly not my experience
22 that that would be the case. If you
23 established it that way, my experience would
24 indicate there was a reason for it.
25 Q. Would somebody, in order to

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1 C. Corr
2 determine what the actual status was, would
3 you need to obtain the -- a copy of the
4 purchasing agreement?
5 MR. GAUMONT: Objection. It
6 calls for a legal conclusion.
7 Q. You may answer.
8 A. I mean, for -- for a legal
9 certainty, yes, I would agree with you.
10 Q. Yes?
11 A. For business practice.
12 Q. More into -- yes, business
13 practice?
14 A. I would -- it is not at all
15 uncommon, when we look at businesses and
16 evaluate businesses, you look at the parent
17 company, you look at the subsidiaries and you
18 try and understand what the relationship is
19 between parents and subsidiaries.
20 Q. As a salesman going in to
21 approach a company involved in a situation
22 where, in this case, Phoenix Color purchased
23 TechniGraphix --
24 A. Right.
25 Q. -- would a salesman be justified

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1 C. Corr
2 in relying upon information conveyed to him by
3 the officers of those corporations --
4 MR. GAUMONT: Objection.
5 Q. -- as to the status?
6 MR. GAUMONT: Objection.
7 A. My advice would be that you do
8 your own due diligence.
9 Q. How would you do that?
10 A. Dun & Bradstreet reports, website
11 reports. There are numerous ways that one can
12 obtain who is who and what's what.
13 Q. Is Dun & Bradstreet always an
14 up-to-date report, in your experience?
15 MR. GAUMONT: Objection.
16 A. One can obtain accurate
17 up-to-date information from Dun & Bradstreet.
18 Q. Was it a fact that Dun &
19 Bradstreet gets the information from the
20 corporate officers of those companies they are
21 reporting?
22 MR. GAUMONT: Objection.
23 A. Not always.
24 Q. They speak to the corporate
25 officers and ask them and make inquiries in

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1 C. Corr
2 order to prepare their report?
3 A. Generally.
4 MR. GAUMONT: Objection.
5 Foundation.
6 Q. Isn't that what a salesman would
7 do, speak to the corporate officers; isn't
8 that a normal business practice?
9 MR. GAUMONT: Objection. Asked
10 and answered.
11 Q. You may answer.
12 A. Yes.
13 Q. In March of 1999, shortly after
14 the purchase of TechniGraphix by Phoenix
15 Color, Patricia Elizondo of Xerox, who was
16 vice president Maryland, Virginia sales CBU at
17 that time, which would be the area involved
18 covering TechniGraphix and Phoenix Color, had
19 a conversation with Jack Tiner concerning the
20 purchase of TechniGraphix by Phoenix Color.
21 Do you know who Jack Tiner was?
22 A. Yes.
23 Q. Who was he?
24 A. The principal at TechniGraphix.
25 Q. By the principal, you mean the

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25 (Pages 97 to 100)

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1 C. Corr
2 man in charge --
3 A. Yes.
4 Q. -- or the equivalent of a
5 president?
6 MR. GAUMONT: Objection.
7 A. I don't recall his title.
8 Q. I don't either, but the man in
9 charge?
10 MR. GAUMONT: Objection.
11 A. For lack of a better
12 characterization, I will agree to that.
13 Q. Ms. Elizondo testified at her
14 deposition that Mr. Tiner phoned her at that
15 time to advise that Phoenix Color had
16 purchased TechniGraphix stock, that the
17 business was sold to Phoenix Color, and that
18 any future business would have to go through
19 Phoenix Color Corporation. That's fact one, I
20 want you to think about.
21 Were you advised of that?
22 MR. WELLSCHLAGER: Can I hear
23 that fact one?
24 (Record read.)
25 Q. Were you advised about that?

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1 C. Corr
2 MR. GAUMONT: Let me have the
3 deposition. Do you have that?
4 MR. FRIEDMAN: No, page 35.
5 Q. Did you have an opportunity to
6 review Ms. Elizondo's deposition?
7 You are shaking your head yes?
8 A. Yes.
9 Q. So you have read it?
10 A. Yes.
11 Q. You may go back and consult with
12 it afterwards, but for purposes of this
13 question, let's assume that I characterized
14 her testimony, which is contained on page 35,
15 and I'm happy for you to go back and check it,
16 that's what she said about a conversation that
17 she had with Mr. Tiner shortly after the
18 purchase of TechniGraphix by Phoenix Color.
19 Fact two, also at pages 35, 36 of
20 Ms. Elizondo's deposition, Ms. Elizondo
21 testified that approximately a month later,
22 she had an in-person meeting with Mr. Tiner
23 and Mr. Tyler.
24 She believes also present with
25 her were a gentleman by the name of Ed Buxcon

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1 C. Corr
2 at Xerox in their sales department below her,
3 maybe also Mr. Nussbaum, but she is not sure.
4 MR. GAUMONT: Objection.
5 Q. She testified at her deposition,
6 pages 35, 36 as follows:
7 "Mr. Jack Tiner introduced Mr.
8 Tyler at this meeting as, quote, our
9 decision-maker, end quote, and further
10 as, quote, one who would be making all
11 operational decisions, end quote."
12 A. Yes.
13 Q. That's fact two.
14 A. Yes.
15 MR. GAUMONT: Mr. Friedman, since
16 you didn't bring the deposition, can I
17 ask, is that the meeting that occurred
18 at the TechniGraphix plant in Sterling,
19 Virginia?
20 MR. FRIEDMAN: I presume, yes.
21 MR. GAUMONT: Okay.
22 Q. Also, at that meeting in March of
23 1999 --
24 A. The one that you referenced
25 previously, which is that same meeting?

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1 C. Corr
2 Q. Yes.
3 A. That would have been a month
4 after, right?
5 Q. I'm sorry, yes, a month -- well,
6 it is in March, it is a month after the
7 purchase.
8 A. Okay. I just wanted to make
9 sure.
10 Q. The statements that Mr. Tyler --
11 excuse me, the statements of Mr. Tiner, Jack
12 Tiner, made regarding the status of Mr. Tyler
13 were made in the presence of Mr. Tyler. Those
14 comments that Mr. Tiner made and I will repeat
15 them --
16 A. We are with Mr. Tyler and Mr.
17 Tiner in the same room, is that what you are
18 saying?
19 Q. That's correct. It would be no
20 difference than all of them sitting around
21 this table having a meeting. It may have been
22 at the table. It may have been in a lunch.
23 A. It certainly wasn't in Don's
24 office.
25 Q. Right. At that meeting, assume

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26 (Pages 101 to 104)

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1 C. Corr
2 an additional fact, that Mr. Tyler confirmed
3 that he was the decision-maker and the person
4 making operational decisions, that's what Ms.
5 Elizondo testified in her deposition at page
6 37.
7 MR. GAUMONT: Objection.
8 A. Yes.
9 Q. Mr. Tyler, at that same meeting
10 where all these people were present, gave out
11 his business card, which was a Phoenix Color
12 Corporation business card to Ms. Elizondo and
13 to Mr. Armando Garcia.
14 A. Yes.
15 Q. It was Mr. Armando Garcia who
16 remembers receiving it.
17 Have you seen his business card,
18 by the way?
19 A. I have, I remember reading the
20 deposition about this. I don't recall seeing
21 his business card.
22 Q. I will show it to you in a
23 second. I didn't bring his card. It is too
24 valuable.
25 MR. GAUMONT: It is your entire
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1 C. Corr
2 case.
3 MR. FRIEDMAN: It is a good
4 piece. Let's have that marked, his
5 business card as exhibit next.
6 (Copy of business card of Donald
7 Tyler marked Corr Exhibit 4 for
8 identification, as of this date.)
9 Q. Let me show you what's been
10 marked as Exhibit 4. It is the business card
11 that Mr. Don Tyler -- I get the names mixed
12 up.
13 A. Yes, they are too close.
14 Q. Why don't you read that for us,
15 what does it say?
16 A. Phoenix Color Corporation, Donald
17 Tyler, Vice President Quality Service
18 Management, Extension 4516, and then it has
19 the address of the Hagerstown location.
20 Do you want me to read that?
21 Q. No.
22 A. And it looks like his e-mail
23 address as well, his phone number and his fax.
24 Q. Ms. Elizondo has testified at her
25 deposition, page 71, that she saw Mr. Tyler
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1 C. Corr
2 give out that business card to other people at
3 the meeting, which would stand to reason. She
4 said everybody exchanged business cards.
5 Ms. Elizondo has also testified
6 at her deposition on page 39 that Mr. Tyler,
7 Donald Tyler, never said during that meeting
8 that he was an employee of TechniGraphix.
9 Those are the facts that I want
10 you to keep in mind.
11 In addition to that, there has
12 been deposition testimony provided by Armando
13 Garcia, another Xerox employee, who said that
14 he was at a meeting with Mr. Tyler, Donald
15 Tyler -- now, I'm not clear and I don't want
16 to misrepresent, I will tell you I'm not clear
17 whether he was at this March meeting which we
18 just described with Ms. Elizondo or some other
19 meeting, but he was at a meeting at which Mr.
20 Tyler gave out this business card, which we
21 marked as Exhibit 4.
22 And I will tell you it was Mr.
23 Garcia who retained it because he has a habit
24 of keeping all business cards.
25 Mr. Garcia also testified at his
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1 C. Corr
2 deposition, page 31, that he understood Don
3 Tyler was a Phoenix Color employee, that he
4 presented himself as such, that he was the
5 person who was integrating Tech into PCC,
6 Phoenix Color Corporation, and he visited Mr.
7 Tyler at his office, business office in
8 Hagerstown, Maryland.
9 Now, based upon the facts which I
10 just presented to you, did Xerox conduct --
11 strike that -- was Xerox justified in relying
12 upon Mr. Tyler's representation that he was a
13 vice president of Phoenix Color Corporation?
14 MR. GAUMONT: I have a number of
15 objections.
16 First, I object to the fact you
17 are recounting deposition testimony we
18 don't have in front of us because I
19 think you do mischaracterize it.
20 Second, I object to the hearsay
21 statements that Ms. Elizondo said that
22 Mr. Tiner said because, as you know, we
23 have no opportunity to cross-examine
24 Mr. Tiner.
25 My recollection of those
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27 (Pages 105 to 108)

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2 depositions is that neither Ms.
3 Elizondo nor Mr. Garcia had any
4 personal knowledge of any discussions
5 with Tyler concerning what he
6 represented and I think the deposition
7 does reflect that.
8 In addition, both of them were
9 very unclear as to where and when this
10 business card was allegedly given to
11 them, particularly Ms. Elizondo, I
12 remember, was unsure as to when this
13 business card was given to her.
14 So with those objections in mind,
15 I don't have a problem with the witness
16 trying to answer this hypothetical.
17 Q. I just want you to assume the
18 facts that I gave you as being within the
19 realm of information that was provided to
20 Xerox employees in the time frame of March
21 1999 --
22 A. Yes.
23 Q. -- when making a determination as
24 to whether or not Mr. Tyler was the
25 appropriate person to deal with and what his

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1 C. Corr
2 status was.
3 MR. GAUMONT: Objection. That is
4 compound. They are two entirely
5 different questions, who to deal with
6 as a representative of TechniGraphix is
7 different from his status.
8 MR. FRIEDMAN: That is fine. We
9 will take it one at a time.
10 Q. His status, first off.
11 A. I would not rely on nor would I
12 advise any of my clients to solely rely on
13 someone's characterization of their own
14 authority and, you know, where they sat within
15 an organization.
16 Q. Someone's own, you mean Mr.
17 Tyler?
18 A. Yes. In other words, just
19 because one may say they hold a position does
20 not necessarily mean that they have the
21 authority that you may wish them to have to
22 execute an agreement. In other words --
23 Q. If it is corroborated by a Mr.
24 Jack Tiner, who introduced Mr. Tyler to the
25 Xerox people, would that --

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1 C. Corr
2 MR. GAUMONT: Objection.
3 Q. Would that --
4 A. What do you mean, as introduced
5 as?
6 MR. GAUMONT: Objection.
7 Q. -- would that be additional
8 corroboration for Xerox to rely upon?
9 MR. GAUMONT: Objection.
10 Hearsay.
11 A. Due diligence would require that
12 you check this out. I mean, if you are going
13 to a bank or if you even look at Xerox
14 Corporation, the title of vice president in
15 and of itself means relatively little.
16 And as you described, he was
17 responsible for, I think you said operational
18 details. As we discussed earlier, these are
19 operation -- some of this is what I would call
20 operational detail, here move this in, move
21 that out.
22 So is it reasonable to assume
23 that, for operational details, he was the
24 go-to guy? I would imagine, yeah, I would say
25 it was reasonable to assume that.

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1 C. Corr
2 As to his decision-making
3 authority, that, I think, you know, would
4 require a little more diligence than just the
5 fact that a couple of people, you know, handed
6 out a card that, frankly, says -- doesn't
7 speak to this particular assignment, so which
8 would lead me to believe it might be, people's
9 titles and responsibilities change regularly.
10 I often have cards that people
11 hand me and say I haven't had a chance to
12 change it, here is my last card. They don't
13 often reflect current state.
14 Q. Wouldn't it have been appropriate
15 for Mr. Tyler if, in fact, that was not -- not
16 his current state, what is reflected on the
17 business card marked as Exhibit 4, to have
18 made that statement?
19 MR. GAUMONT: Objection.
20 A. I don't know that he didn't.
21 Q. Well, would it have been
22 appropriate -- would it have been appropriate
23 for Mr. Tyler at some point subsequent to
24 March 1999 to have obtained the business card
25 which indicated his actual status with

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28 (Pages 109 to 112)

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1 C. Corr
2 TechniGraphix as opposed to Phoenix Color?
3 MR. GAUMONT: Objection.
4 Q. Wouldn't it have been
5 appropriate?
6 A. It is my experience that people
7 often don't have the business card with their
8 existing job.
9 Q. You mean they go through their
10 entire existence within a business role
11 without having the business card; that is your
12 experience?
13 A. Quite often, yes.
14 Q. Is that a good business practice,
15 in your opinion?
16 MR. GAUMONT: Objection.
17 A. I think it is reflective of many
18 ways of today's business climate.
19 Q. Is that a good business practice,
20 in your opinion?
21 MR. GAUMONT: Objection.
22 A. I don't think it is egregious.
23 Q. Do you do that?
24 A. I'm sure that we have done it
25 because we haven't caught up with changes in

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1 C. Corr
2 our business cards.
3 Q. Would it be appropriate for you
4 not to have a current business card nine
5 months later?
6 MR. GAUMONT: Objection.
7 A. No. But it wouldn't be unusual.
8 Q. Would it be appropriate for you
9 not to have a current business card six months
10 later?
11 A. Again, but not unusual.
12 Q. So the answer is, yes, it would
13 be inappropriate, but not unusual, from your
14 experience, is that what you are telling me?
15 A. That's what I'm telling you, yes.
16 Q. If, in fact, you didn't have an
17 appropriate business card, wouldn't you, as an
18 honest business person, indicate to the
19 individual you are handing it to, this is not
20 my proper business card, whoops, I haven't
21 gotten a new one made up yet?
22 A. That's fairly common, if it is
23 not the right card, that someone would mention
24 that it was not current.
25 Q. TechniGraphix has testified

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1 C. Corr
2 through Mr. Lieberman and Mr. Tyler that they
3 never obtained or produced a business card in
4 the name of TechniGraphix for Mr. Tyler.
5 Are you aware of that?
6 MR. GAUMONT: Objection. That is
7 a mischaracterization of testimony. At
8 the time of deposition, they were
9 unsure whether the business card was
10 obtained and we subsequently produced a
11 business card to you in discovery.
12 MR. FRIEDMAN: You produced a
13 business card showing his -- I haven't
14 seen it. When did you produce it?
15 MR. GAUMONT: Months ago.
16 MR. FRIEDMAN: What does it say?
17 MR. GAUMONT: It says -- I did
18 not bring it with me. I'm not
19 testifying here. You have an
20 obligation to review your own
21 discovery, Sidney.
22 MR. FRIEDMAN: Your testimony is
23 you sent us a business card from
24 TechniGraphix showing that there was a
25 business card produced for him with his

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1 C. Corr
2 title on it?
3 MR. GAUMONT: I'm not testifying.
4 We can discuss this later.
5 MR. FRIEDMAN: We will go off the
6 record.
7 (Discussion held off the record.)
8 MR. FRIEDMAN: For the record,
9 Mr. Gaumont says that he sent us a copy
10 of a business card from Mr. -- from the
11 defendant showing that Mr. Tiner did
12 actually produce a business card with
13 his status, I have not seen it, I will
14 take his representation as accurate.
15 If I am wrong about that, I will
16 apologize.
17 MR. GAUMONT: Mr. Friedman meant
18 Mr. Tyler.
19 Q. Mr. Tyler.
20 So it is your testimony, your
21 opinion, that Xerox should have done what, in
22 addition to the information they acquired
23 regarding the status of Mr. Tyler's position
24 with --
25 A. What I would advise them to do or

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29 (Pages 113 to 116)

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1 C. Corr
2 my experience would be that you would
3 determine the authority that someone has and
4 that if, indeed, this characterization is
5 correct, which I would imagine would be, you
6 know, reinforced by the fact that that is
7 where he -- I don't know if you have ever been
8 to the plant.
9 Q. No, I haven't.
10 A. He had a very small office near
11 the production facility. So it would make
12 sense that he was responsible for, you know,
13 the operational issues. It would not make
14 sense that he would be able to bind or --
15 bind, you know, separate entities.
16 Q. Would it have been appropriate
17 for Phoenix Color to have put out a press
18 release to its -- to the world or sent a
19 letter out to its customers and vendors that
20 Mr. Tyler is no longer with Phoenix Color as a
21 vice president, he is now with TechniGraphix
22 and in whatever status or capacity he is in,
23 would that have been appropriate business
24 practice?
25 MR. GAUMONT: Objection.

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1 C. Corr
2 A. My sense he is not senior enough
3 that he would ever issue a press release
4 about --
5 Q. I didn't say him. Wouldn't it
6 have been appropriate for someone on behalf of
7 TechniGraphix to have done that, or Phoenix
8 Color, so that the world would understand his
9 status?
10 MR. GAUMONT: Objection.
11 A. And discuss the status -- we do
12 this stuff all the time. It would be very
13 rare. When I say very rare, I cannot think of
14 an occasion where you would discuss someone's
15 position in an organization that would be as
16 low as this gentleman's position appears to
17 be.
18 Is it often the case that you
19 would issue a press release around a merger or
20 an action on the acquisition of stock?
21 Certainly, it is very common for publicly held
22 companies to do that. It is less common for
23 privately held companies to do that.
24 And in my opinion, is that it is
25 generally related to the marketing impact,

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1 C. Corr
2 general, the issuance of press releases is not
3 so much to have people better understand the
4 business part of it as it is to position them
5 within the marketplace.
6 Q. If Mr. Tyler was inappropriately
7 signing contracts as vice president of Phoenix
8 Color because, in fact, he didn't have that
9 status, what checks and balances should have
10 been in place to have caught that --
11 MR. GAUMONT: Objection.
12 Q. -- error on the part of Phoenix
13 Color --
14 MR. GAUMONT: Objection.
15 Q. -- and then secondarily, on the
16 part of TechniGraphix?
17 MR. GAUMONT: Objection.
18 A. What would I advise them to do?
19 Q. Yes, what would you have advised
20 them to do to make sure that appropriate
21 people were signing contracts?
22 MR. GAUMONT: Objection.
23 A. You would certainly have -- I
24 mean, an appropriate way, whether they have
25 this or not, I have no knowledge, that you had

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1 C. Corr
2 your own policies and procedures in place to
3 both collect and -- I mean, you would have
4 your own accounting system that would also be
5 in place, issue purchase orders in addition to
6 signing agreements.
7 Q. So at some point, there could
8 have been a system in place which would have
9 caught the fact that Mr. Tyler was signing
10 contracts inappropriately as vice president of
11 Phoenix Color; is that correct?
12 MR. GAUMONT: Objection.
13 Mischaracterization.
14 A. You asked the question could
15 there have been? Could there have been? Yes.
16 To my knowledge, I have no knowledge of that.
17 Q. Did you inquire of Phoenix Color
18 whether they had such systems in place?
19 A. I did not.
20 Q. Have you made any such inquiry as
21 to whether they had such systems in place?
22 A. Actually, I have.
23 Q. What was the result, the
24 response?
25 A. I don't have a clear

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<p>1 C. Corr 2 understanding of any of their internal 3 processes as it would relate to that issue. 4 Q. Why is that? 5 A. I'm speculating as to why. I 6 don't know why. 7 Q. No, I meant why is it you don't 8 have a clear understanding? 9 A. I'm speculating as to why I don't 10 have -- I do not have a clear understanding. 11 It has not been fully explained to me. 12 Q. By Phoenix Color? 13 A. Right. 14 Q. Did you make the same such 15 inquiry with regard to TechniGraphix? 16 A. My inquiry would have included 17 both parties. 18 Q. And the answer is the same as to 19 both Phoenix Color and TechniGraphix? 20 A. Yes. 21 Q. That neither one has been able to 22 explain to you why they didn't have some sort 23 of procedure and system in place to have 24 caught up with this problem of Mr. Tyler 25 signing --</p> <p>Page 121</p>	<p>1 C. Corr 2 MR. GAUMONT: Objection. 3 A. That's fair. 4 Q. All right? 5 A. It is also fair that was more my 6 inquisitiveness, not that it was necessarily a 7 key to my being able to evaluate it, it was 8 just sort of, what's there. 9 MR. GAUMONT: Is now an okay time 10 for a short break? 11 MR. FRIEDMAN: Yes, I'm sorry. 12 (Recess taken.) 13 Q. Looking at Exhibit I, your first 14 report, the second page, the last paragraph, 15 you say: 16 "It is our belief to a reasonable 17 degree and professional certainty that 18 late in 2000 Xerox could have sold this 19 equipment as used." 20 A. Yes. 21 Q. At what price? 22 A. My belief is that they could have 23 used it at very close to the price of new 24 equipment, which, depending upon the 25 configuration, puts it in the upper, you know,</p> <p>Page 123</p>	
<p>1 C. Corr 2 MR. GAUMONT: Objection. 3 A. It wasn't related directly to 4 this. It was related right from the beginning 5 of what -- in other words, if you think back 6 to the initial conversation I had with Bob, 7 part of it was, what do you have, right? What 8 information do you have? What pieces of paper 9 do you have, and then subsequently, it is 10 what -- what was the process. 11 Q. Then I take it, you haven't 12 gone -- have you gone back to make further 13 inquiries regarding this problem -- 14 MR. GAUMONT: Objection. 15 Q. -- subsequent to your initial 16 inquiry? 17 MR. GAUMONT: Objection. 18 Q. I guess the answer is no because 19 you can't tell me today, right? 20 A. I certainly -- it perhaps is 21 discussed. I don't remember. I don't recall. 22 Q. You think you may have discussed 23 it, but sitting here today, your testimony is 24 that you still don't know why those systems 25 weren't in place; is that a fair statement?</p> <p>Page 122</p>		<p>4</p>

31 (Pages 121 to 124)

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<p>1 C. Corr 2 FURTHER EXAMINATION 3 BY MR. FRIEDMAN: 4 Q. Would your answer to Mr. 5 Gaumont's questions be different if you were 6 looking at a contract that was not a 7 modification and signed by Mr. Tyler in his 8 position as vice president of Phoenix Color? 9 MR. FRIEDMAN: Let me show you a 10 document and let's have that marked as 11 Exhibit 5, please. 12 (Xerox Corporation document 13 entitled "Sale/Maintenance 14 Agreement" marked Corr Exhibit 5 15 for identification, as of this 16 date.) 17 MR. GAUMONT: Well, hold on a 18 second. This is a contract in the name 19 of TechniGraphix. 20 Q. Would your answer be any 21 different after reviewing what's been marked 22 as Exhibit 5? 23 How did Mr. Tyler sign that 24 contract on the bottom? 25 MR. GAUMONT: Objection.</p> <p>Page 137</p>	<p>1 C. Corr 2 Q. Would your answer be different, 3 having seen that contract, which is not a 4 modification, does that change your opinion in 5 any way? 6 A. No. 7 MR. GAUMONT: Objection. 8 Q. Why? 9 A. It is still, in my mind, an 10 operational issue within TechniGraphix. 11 Q. Why? 12 A. Because it is on a Docusheeter, 13 not a 6180. 14 Q. Is that a new piece of equipment? 15 A. No, it is an accessory. 16 Q. It is not a modification, does it 17 say modification on that document? 18 A. No. 19 Q. Exhibit 5 doesn't say 20 modification, does it? 21 A. It does not. 22 Q. In fact, it is adding a piece of 23 equipment, a Docusheeter? 24 A. Yes. 25 Q. And, in fact, it is signed by</p> <p>Page 139</p>
<p>1 C. Corr 2 Compound. Which question do you want 3 him to answer? 4 Q. First, how did he sign it? 5 A. As -- 6 MR. GAUMONT: Well, objection to 7 the characterization. 8 Q. How is it signed, what is the 9 representation? 10 MR. GAUMONT: Objection. You are 11 implying that the representation was 12 made by Mr. Tyler. The undisputed 13 testimony is that -- 14 Q. How did he sign it? 15 A. He signed it, there is his name, 16 there is his signature. 17 Q. Correct. He signed it -- would 18 you agree with me that he signed it under the 19 designation Donald Tyler, Vice President, 20 Phoenix Color? 21 A. Yeah, he clearly signed it, to 22 the best of my knowledge, that's his 23 signature. 24 Q. Right. 25 A. And the other --</p> <p>Page 138</p>	<p>1 C. Corr 2 Donald Tyler under the designation vice 3 president, Phoenix Color? 4 A. Yes. 5 Q. And, in fact, do you agree with 6 me that it says at the top under the 7 customer's name, "TechniGraphix, a wholly 8 owned subsidiary of Phoenix Color 9 Corporation"? 10 If you looked at that designation 11 in and of itself, what would that tell you 12 about the status of TechniGraphix? 13 MR. GAUMONT: Objection. It 14 calls for a legal conclusion. 15 Q. In your business experience, 16 would that indicate to you that TechniGraphix 17 was a separate corporation? 18 MR. GAUMONT: Objection. 19 MR. WELLSCHLAGER: It couldn't be 20 clearer. 21 Q. Is there anything in that 22 document that says TechniGraphix is a separate 23 corporation? 24 A. Yes. It says -- 25 Q. Show me. What's it say? Read me</p> <p>Page 140</p>

35 (Pages 137 to 140)

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2 the words that tell you it is a corporation.
3 MR. WELLSCHLAGER: How about
4 subsidiary?
5 A. A wholly owned subsidiary.
6 Q. So if the words after the
7 designation, after the name say "wholly owned
8 subsidiary," it automatically means to you,
9 based upon your experience, that it is a
10 corporation?
11 MR. GAUMONT: Objection.
12 Q. "It," meaning TechniGraphix?
13 A. I'm going to qualify my answer
14 back to you. If you were to present this to
15 me --
16 Q. Yes?
17 A. -- I would immediately conclude
18 or be concerned that there was a separate
19 corporate entity going on between the two
20 pieces, TechniGraphix and Phoenix Color.
21 I would be immediately concerned
22 about that differentiation because, in many
23 cases, people structure themselves to be
24 corporately distinct for a variety of reasons,
25 and we could argue this, but I would argue in

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1 C. Corr
2 most cases, to keep some distance between
3 parent companies and subsidiaries, and I would
4 be very nervous about the ability to -- to
5 bind one to the other and would want to
6 understand that.
7 Q. That's based upon your
8 experience. And I would tell you that I would
9 have the same type of inquiry because I'm a
10 trained lawyer.
11 Would the average layman make
12 such an inquiry, have such doubts in their
13 mind, in your opinion?
14 MR. GAUMONT: Objection.
15 Objection. He is not testifying as to
16 the average layman.
17 Q. Would a salesman have such
18 doubts, who is not as trained as you or me?
19 MR. GAUMONT: Objection.
20 A. Well, in doing sales training, we
21 would point out that you want to be very
22 careful about and target what we call sea
23 level folks within an organization so that you
24 overcome some of these things and you are sure
25 you are working with the right level of

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1 C. Corr
2 decision-maker.
3 Q. It is highly unlikely, in your
4 sales training, that you would have
5 encountered a situation like this; isn't that
6 true?
7 MR. GAUMONT: Objection.
8 Q. And that you would have focused
9 your audience on that particular problem?
10 MR. GAUMONT: Objection.
11 Q. Yes or no?
12 A. Well, I'm just trying to qualify
13 the particular problem.
14 Q. The particular problem being
15 understanding what a subsidiary is.
16 Do you actually conduct seminars
17 with salespeople which focuses on --
18 A. No.
19 Q. -- what -- the answer is no?
20 A. The answer to that question is
21 no. We do focus on who you should target.
22 Q. Slower, as a general matter, but
23 not specifically as to subsidiaries, right?
24 Yes or no?
25 A. It is a broad question. Not

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1 C. Corr
2 specifically the way you have described it,
3 but it is something that you would want them
4 to be concerned about, which is why you urge
5 them to deal with people with the right level
6 within an organization.
7 Q. Right. But you don't
8 specifically deal with that type of a problem
9 where it is written in the form of a
10 subsidiary of and say to your audience, you
11 know, a subsidiary means that you are a
12 corporation?
13 MR. GAUMONT: Objection.
14 Q. Have you ever given a seminar
15 like that? Yes or no?
16 MR. GAUMONT: Objection. Asked
17 and answered.
18 A. No.
19 Q. Thank you.
20 MR. FRIEDMAN: Let's have this
21 marked.
22 (Handwritten note dated January
23 6, 2000 from Donald Tyler to
24 Bruce Nussbaum marked Corr
25 Exhibit 6 for identification, as

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36 (Pages 141 to 144)

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1 C. Corr
2 of this date.)
3 Q. Exhibit 6 is a letter, it is an
4 original from Donald Tyler to Bruce Nussbaum
5 written on January 6, 2000.
6 How did Mr. Tyler sign off on
7 that letter?
8 MR. GAUMONT: Objection.
9 Relevance. This was executed after the
10 December '99 modifications, but you can
11 answer.
12 A. How did he sign it?
13 Q. Yes.
14 A. VP operations for TechniGraphix.
15 Q. Division of Phoenix Color
16 Corporation?
17 A. Yes.
18 MR. GAUMONT: Let me note for the
19 record was what he signed was Donald
20 Tyler, VP operations. There is
21 TechniGraphix stationery that he signed
22 it on, which indicates division of
23 Phoenix Color Corp.
24 Q. If you are getting that letter,
25 could you conclude that Mr. Tyler is a vice

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1 C. Corr
2 president of Phoenix Color Corporation?
3 Is that a possible inference to
4 draw from that?
5 MR. GAUMONT: Objection.
6 Anything is possible.
7 MR. FRIEDMAN: Yes, it is.
8 A. It is not an inference I would
9 necessarily draw from it.
10 Q. All right. Is it an inference
11 that a salesperson who is not as trained as
12 you or I could draw, or would draw?
13 A. Rephrase. Could draw? I mean,
14 again, I'm back on anything is possible.
15 MR. GAUMONT: Yes. Objection.
16 Q. All right. Would a salesman draw
17 such an inference from that letter?
18 MR. GAUMONT: Objection.
19 MR. WELLSCHLAGER: Sidney, he
20 can't testify about what a salesman --
21 ask him if it is a reasonable or fair
22 inference.
23 MR. FRIEDMAN: Thank you.
24 Q. Is it a reasonable or fair
25 inference for a salesman to draw from that

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1 C. Corr
2 letter that Mr. Tyler is the vice president of
3 Phoenix Color Corporation?
4 MR. GAUMONT: Objection.
5 A. No, I would read it he is the
6 vice president of TechniGraphix.
7 Q. So your testimony is that it
8 would not be a reasonable inference for a
9 salesman to draw that?
10 A. That would be my opinion, yeah.
11 Q. And that is based upon the fact
12 that --
13 A. TechniGraphix --
14 Q. In your opinion, if you use the
15 word "a division," it automatically means that
16 it is a separate corporation?
17 That's what I want to understand.
18 MR. GAUMONT: Objection.
19 A. It would indicate to me he is a
20 vice president of TechniGraphix, that's
21 what -- he just signed it, that is the
22 letterhead.
23 Q. What is the purpose of putting on
24 there a division of Phoenix Color Corporation,
25 what business purpose does that serve --

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1 C. Corr
2 MR. GAUMONT: Objection.
3 Q. -- in your opinion?
4 A. Just, again, why people, you
5 know, carry -- it is generally my opinion that
6 those are usually branding issues and if you
7 think about, for instance, CAP Ventures
8 acquired a company Info Trends.
9 Q. Branding issues -- I don't mean
10 to cut you off, but we are sort of running out
11 of time -- by that, you mean that they want
12 the party receiving that information to know
13 that they are associated with this other
14 entity.
15 MR. GAUMONT: Objection.
16 Q. Is that correct?
17 A. Generally, that is correct.
18 Because, as I indicated earlier, generally
19 driven from a marketing and sales perspective,
20 not a notification perspective.
21 Q. Well, what benefit does
22 TechniGraphix get, in your opinion, out of
23 utilization of that terminology, a division of
24 Phoenix Color Corporation? Why not just say
25 TechniGraphix, Inc?

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37 (Pages 145 to 148)

Charles Corr
September 18, 2003

1 C. Corr
2 MR. GAUMONT: Objection.
3 Q. As a business practice, what
4 benefit do they get out of that?
5 A. Phoenix has a stronger brand.
6 Q. Does Phoenix -- and would it be
7 true that they might derive the benefit of
8 Phoenix's stronger financial statement --
9 MR. GAUMONT: Objection.
10 Q. -- for resources?
11 MR. GAUMONT: Calls for
12 speculation.
13 Q. -- for financial resources?
14 MR. GAUMONT: Objection. Calls
15 for speculation.
16 A. Whether that were true or not,
17 certainly financial stability has something to
18 do with brand, plus or minus, but beyond that,
19 I don't know.
20 MR. FRIEDMAN: I'm going to
21 conclude and I know you may have some
22 follow up based on what I just said.
23 If you don't, fine.
24 I would like to have these
25 exhibits photocopied. I would like to

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1 C. Corr
2 take the originals back with me.
3 Did you have anything else.
4 MR. GAUMONT: No.
5 (Recess taken.)
6 MR. FRIEDMAN: Back on the
7 record, by agreement of all here today,
8 we are stopping the deposition at this
9 point because of Hurricane Isabel,
10 which is making its way north.
11 And because of my fear that I'm
12 not going to be able to get on the 2
13 o'clock train and everybody has
14 graciously agreed to allow us to
15 continue this at a later date, we will
16 decide whether it will be by telephone,
17 when, where and so.
18 Is that a fair statement?
19 (Transcript continued on next
20 page)
21
22
23
24
25

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1 C. Corr
2 MR. GAUMONT: That's a fair
3 statement, mutually convenient time and
4 special consideration given to Mr.
5 Corr's time.
6 MR. FRIEDMAN: Absolutely. I
7 will bend my schedule for Mr. Corr.
8 (Time noted: 12:43 P.M.)
9
10 Charles M. Corr
11
12 Subscribed and sworn to
13 before me this _____ day
14 of _____ 2003.
15
16
17
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25

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1
2
3 CERTIFICATE
4
5 STATE OF NEW YORK)
6) ss:
7 COUNTY OF NEW YORK)
8
9 I, ANNELIESE R. TURSI, a
10 Registered Professional Reporter and Notary
11 Public within and for the State of New
12 York, do hereby certify:
13
14 That I reported the proceedings in
15 the within-entitled matter, and that the
16 within transcript is a true record of
17 such proceedings.
18
19 I further certify that I am not
20 related, by blood or marriage, to any of
21 the parties in this matter and that I am
22 in no way interested in the outcome of
23 this matter.
24
25 IN WITNESS WHEREOF, I have hereunto
set my hand this ____ 25th ____ day of September,
____ 2003.

ANNELIESE R. TURSI, RPR

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38 (Pages 149 to 152)